

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

DEREK ANTHONY COSTANTINO,	)	3:10-cv-00078-RCJ-WGC
	)	
Plaintiff,	)	<b><u>MINUTES OF PROCEEDINGS</u></b>
	)	
vs.	)	May 16, 2013
	)	
STATE OF NEVADA, <i>et al.</i> ,	)	
	)	
Defendants.	)	

PRESENT: THE HONORABLE WILLIAM G. COBB, U.S. MAGISTRATE JUDGE

DEPUTY CLERK: Katie Lynn Ogden REPORTER: \_\_\_\_\_ FTR

COUNSEL FOR PLAINTIFF: Derek Anthony Costantino, Pro Per (Telephonically)

COUNSEL FOR DEFENDANTS: Micheline Fairbank

**MINUTES OF PROCEEDINGS: Status Conference**

9:34 p.m. Court Convenes.

**I. Discussion Regarding Plaintiff's Second Amended Complaint (Dkt. #118)**

The court addresses its Minute Order (Dkt. #123) to clarify on record as to the status of plaintiff's amended complaint (Dkt. #118). The court recognizes that the Attorney General's ("AG") Office has until May 22, 2013, to file their notice for whom it does not accept service on behalf of the newly named defendant(s); however, the court inquires whether Ms. Fairbank is able to represent today which defendants those may be. Ms. Fairbank indicates that, from her recollection, the AG's Office has accepted service on behalf of all the named defendants in this matter, including the newly named defendants. Ms. Fairbank represents that if she inadvertently did not include the newly named defendants in her Answer (Dkt. #125), she will file a notice with the court to clarify the defendants in which she and her office represents.

**II. Deadline for Completion of Discovery**

The court notes that this case has a current discovery cut-off deadline of June 24, 2013. The court inquired whether the parties believe this deadline is appropriate or not.

Mr. Costantino represents that he has experienced difficulty receiving his mail recently because defendants are sending documents to the incorrect address. Furthermore, Mr. Costantino indicates that, once he receives his documents, they are in disarray. In light of this, Mr. Costantino

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requests that the discovery deadline be extended by forty-five (45) days because he believes it will take some time to reorganize the material and confer with defendants regarding any further discovery.

Ms. Fairbank advises the court that her office did utilize the wrong address for Mr. Costantino; however, the issue has been resolved and Mr. Costantino is now receiving his mail to the correct address. Ms. Fairbank further indicates that she was unaware of the condition in which plaintiff was, or is, receiving his documents and will follow-up with the institution to address the issue. With regard to the extension of time as to the discovery deadline, Ms. Fairbank has no objection.

Good cause appearing, the discovery deadline is hereby extended to **August 16, 2013**.

**III. Defendants' Deadline to Respond to Plaintiff's Interrogatories**

Ms. Fairbank indicates that Mr. Costantino propounded additional interrogatories and the responses are due today. Ms. Fairbank explains most of the additional interrogatories propounded by the plaintiff exceed the 25 request limit governed by Federal Rules of Civil Procedure and has noticed plaintiff that she intends to respond to interrogatories but not in excess of 25 because he has not sought leave of court to propound an excess of the 25 limit request.

The court finds that a reasonable compromise to resolve the issue of Mr. Costantino's excess of interrogatory requests is to extend the discovery deadline to allow additional time for defendants to answer all interrogatory requests. Ms. Fairbank agrees with the court's proposal and represents that defendants will not assert an objection to the number of propounded interrogatory requests. Mr. Costantino has no objection to the proposed compromise.

Defendants shall have up to and including **Friday, May 31, 2013**, to answer all interrogatory requests propounded by plaintiff. Therefore, discovery deadlines are amended as follows:

<b>Discovery motions deadline:</b>	August 30, 2013
<b>Dispositive motions:</b>	September 13, 2013
<b>Joint Pre-Trial Order:</b>	September 13, 2013

The court notes, if dispositive motions are filed, the Joint Pre-Trial Order deadline and Trial date will be VACATED.

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**IV. Discussion Regarding AO 85 Form (Consent, and Reference of a Civil Action to a Magistrate Judge)**

The court advises the parties of the option to consent to a Magistrate Judge to preside over this case. The court suggests the parties discuss the possibility of filing a consent form and directs the parties attention to Dkt. #126 for more information.

**V. Plaintiff's Motion of Consideration for Scheduling Mediation Conference Order (Dkt. #114).**

The court finds it appropriate to refer this case to mediation. Therefore, plaintiff's Motion of Consideration for Scheduling Mediation Conference Order is **GRANTED**. The Inmate Mediation Conference is scheduled for **Tuesday, June 11, 2013, at 1:30 p.m.**

10:00 a.m. Court Adjourns.

**IT IS SO ORDERED.**

LANCE S. WILSON, CLERK

By: \_\_\_\_\_ /s/

Katie Lynn Ogden, Deputy Clerk